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VIRGINIA:

IN THE CIRCUIT COURT OF ARLINGTON COUNTY

JUSTIN POTTER WILSON, JR.,

Plaintiff,

v.

ANNA VLADIMIROVNA WILSON,
(f/k/a Anna Nikolaeva Wilson)

Defendant.

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Case No. CL 16-1673-01

CHILD CUSTODY AND VISITATION ORDER

THIS CAUSE CAME before the Court on June 15-16, 2020, June 21-23, 2021, September 1-2, 2021, and September 15, 2021 for a full evidentiary hearing upon “Defendant’s Verified Emergency Motion to Suspend Visitation and Modify Child Custody and Visitation” and “Plaintiff’s Counter Motion Against Defendant for Emergency and Permanent Custody, Injunctive Relief and Sanctions” regarding the parties’ minor child, Justin Potter Wilson III (hereinafter the “Child”), age 13, born September 1, 2008; and

IT APPEARING TO THE COURT that after carefully considering each of the factors in Virginia Code Section 20-124.3, affording each the appropriate weight, given the record in this case, the testimony presented, including the demeanor and credibility of the respective witnesses which the Court heard and observed over a period of eight (8) days of testimony, and the exhibits introduced into evidence; that, for the reasons set forth in the Court’s ruling on September 29, 2021, a copy of which is attached hereto and made a part of this Child Custody and Visitation Order below,

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IN CONSIDERATION WHEREOF, it is hereby ORDERED AND ADJUDGED:

(1) Transcript. The transcript of this Court's ruling of September 29, 2021 is attached hereto and incorporated by reference into this order.

(2) Material Change. Based on the reasons stated in the Court's ruling, the Court finds that there has been a material change in circumstances since entry of the Custody Order on September 9, 2019 and that this material change justifies a modification of said Order based upon the best interests of the Child as follows. The Court further finds that the custody and visitation schedule set forth in the September 9, 2019 Custody Order shall be modified as follows.

(3) Legal Custody. Defendant ("Mother") shall have sole legal custody of the Child. Mother shall provide Plaintiff ("Father") with information regarding any medical treatment received by the Child, as well as any school reports from any school the Child is attending. Mother may, but is not required to, consult with Father regarding the Child's activities, school performances, and any behavioral or emotional issues involving the Child.

(4) Physical Custody. Mother shall have sole physical custody of the Child until further order of the Court.

(5) Visitation. Father shall have the following visitation with the Child:

(a) Supervised visitations shall initially be with the reunification therapist, Michele Cole, Ph.D. ("Dr. Cole"), who is the therapist selected by the guardian *ad litem*. Dr. Cole will work with Father and the Child in order to begin the reunification process. The number and timing of sessions shall be decided by Dr. Cole. When approved by Dr. Cole, Father will also be allowed supervised visitation with the Child one (1) Saturday a month for a period not to exceed four (4) hours, with supervision through either Safe Heavens or a certified visitation professional approved by the guardian *ad litem*. Father shall pay for both the reunification therapy services and his supervised visitation.

(b) Mother shall not call or schedule any event for the Child during any of Father's supervised visitation times. Father shall provide Mother with a visitation schedule approved by Dr. Cole at least two (2) weeks in advance, and Mother can reach out to Dr. Cole to adjust the schedule if an unavoidable conflict exists.

(c) Telephone Calls. Father shall not call the Child during Mother's custodial time, except Father may call the Child between 8:00 p.m. and 8:30 p.m. every Tuesday, Wednesday, and Thursday evening, and the calls shall be limited to a half hour. Mother shall ensure that the Child is available to speak with Father during this time. All Father's telephone calls with the Child may be recorded by Mother without warning, pursuant to this Order. Notwithstanding the forgoing, Father shall be permitted to call the Child for up to one (1) hour during the following holidays: New Year's Day, Thanksgiving, and Christmas.

(6) Disparaging Comments. Neither parent shall make derogatory or disparaging comments about the other parent or the activities that parent has arranged for the Child, and neither parent shall use profanity in conversations with the Child or with the other parent.

(7) Corporal Punishment. Neither parent shall use corporal punishment as a means of disciplining the Child or engage in any physical abuse of the Child. This is to include intentionally hitting any part of the Child's body to get his attention, remonstrate him for inappropriate or thoughtless conduct, or for any other reason, except if the Child's safety or health is in danger and such action is necessary to protect the Child's immediate well-being.

(8) Therapy. Father shall continue his current therapy and shall also complete a specific anger management program to be approved by the guardian *ad litem*, and that can be done by William B. Zuckerman, Ph.D., as long as there is a clear focus on anger management as it applies to the relationship with Mother and the Child. Mother shall engage in family counseling with Elizabeth Bennett, Ph.D. ("Dr. Bennett") and the Child at least every two (2) weeks until further order of the Court.

(9) Mother shall make every effort to ensure that the Child is attending school in a consistent and timely manner, and shall work with the guardian *ad litem* if absences or tardies continue to be an ongoing issue while school is back in-person.

(10) The Court will set this matter for review, at which time the reunification therapist, guardian *ad litem*, and Dr. Bennett shall report to the Court as to whether increased visitation and unsupervised visitation with Father, including overnights, weekends, and holidays, are appropriate.

(11) Father shall provide Mother with the Child's U.S. Passport, currently in his position, within ten (10) days from the entry of this Order.

(12) Attorney's Fees. The Court finds that the award of attorney's fees to Mother is supported by the record. Father shall pay the sum of Fifty Thousand and no/100 Dollars (\$50,000.00) to Mother as and for reimbursement of Mother's attorney's fees within thirty (30) days of the entry of this Order.

(13) 30 Day Notice. Pursuant to Section 20-124.5 of the Code of Virginia, 1950, as amended, thirty (30) days advance written notice must be given to the Court and the other party by any party intending to relocate and of any intended change of address. Such notice shall provide the Court and the other party of the intended date of change of address, the specific street, route address, city or county, state and zip code of the intended new address. Such written notice shall be mailed to the Court at the following address: Clerk of the Court, Circuit Court of Arlington County, 1425 N. Courthouse Road, Arlington, Virginia 22201, and shall certify the date that such information was mailed or otherwise delivered to the other party.

IT IS FURTHER ORDERED that the Clerk of the Court may forthwith issue certified copies of this Order to Counsel of Record.

ENTERED this ____ day of _____

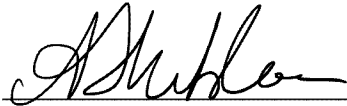


03/04/2022

JUDITH L. WHEAT
JUDGE

Circuit Court Judge

SEEN AND AGREED:



ANDREI J. KUBLAN (VSB No. 73120)

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SEEN AND OBJECTED TO*:

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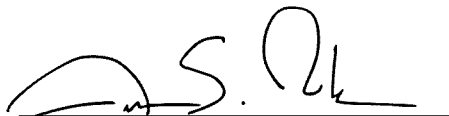
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Counsel for Plaintiff/Father

*Objected for reasons stated in argument and on the record and for such other and further reasons as may be submitted to the Court in the form of objections or motion for reconsideration within twenty-one days from the date of entry of this Order.

SEEN AND AGREED:



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Guardian ad Litem

Child Custody and Visitation Order

Wilson v. Wilson

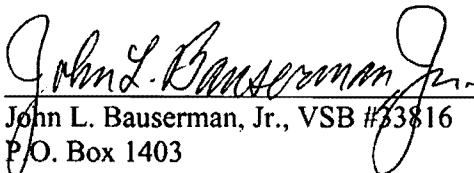
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Page 5 of 5

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Guardian ad Litem

V I R G I N I A

IN THE CIRCUIT COURT OF ARLINGTON COUNTY

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JUSTIN POTTER WILSON, JR., :
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Plaintiff, :
:
-vs- : CASE NO.: CL16001673-00
:
ANNA VLADIMIROVNA WILSON, :
:
Defendant. :
:
- - - - - x

Circuit Courtroom 10C
Arlington County Courthouse
Arlington, Virginia

Wednesday, September 29, 2021

The above-entitled matter came on to be heard

Via Microsoft Teams module before the HONORABLE JUDITH L.
WHEAT, Judge, in and for the Circuit Court of Arlington
County, beginning at 2:46 o'clock p.m.

APPEARANCES:

On Behalf of the Plaintiff:

JOHN L. BAUSERMAN, JR., ESQUIRE

On Behalf of the Defendant:

ANDREI J. KUBLAN, ESQUIRE

Also Present:

AARON S. BOOK, ESQUIRE

1 P R O C E E D I N G S

2 THE BAILIFF: All rise. This Circuit Case is
3 now in session. The Honorable Judith Kelly Wheat is now
4 presiding.

5 THE CLERK: This is CL16001673-03, Wilson
6 versus Wilson.

7 (Whereupon, the Court Reporter was sworn by
8 the Clerk of the Court.)

9 THE COURT: Good afternoon, everyone. Mr.
10 Book, do you have any objection if I take my mask off?

11 MR. BOOK: No objection.

12 THE COURT: All right. As I indicated to all
13 of you, I would render my decision today. I have spent a
14 considerable amount of time working on it, and I will go
15 through the facts that I have considered and the
16 conclusions that I have drawn after multiple days of
17 testimony in this case.

18 This matter came before the Court on the
19 motion of Anna Wilson to modify custody based on
20 allegations of physical abuse of a child by Justin Wilson.
21 Justin Wilson filed a cross-motion to modify custody,
22 alleging that Mrs. Wilson committed fraud on the Court in
23 filing her petition and in her testimony in June 2020

1 during the emergency custody proceeding.

2 The first issue before the Court is whether
3 there has been a material change in circumstances such
4 that modification of the custody is properly before the
5 Court. In deciding this issue, the Court makes the
6 following preliminary observations.

7 The Court heard several days of testimony on
8 August 20, 2019, on the party's cross motions to modify
9 custody. At the conclusion of that hearing, the Court
10 maintained joint legal custody on the part of Mr. and Mrs.
11 Wilson, with Mrs. Wilson having final decision-making
12 authority. I awarded primary physical custody to Mrs.
13 Wilson, with extended weekend and holiday visitation to
14 Mr. Wilson.

15 This decision was intended to achieve certain
16 objectives which the Court deemed to be in the best
17 interest of the parties' minor child, Justin, who at that
18 time was turning 11 years old.

19 The Court's objectives include, first,
20 providing each parent the opportunity to engage fully in
21 the child's educational, emotional, and physical
22 development, while also providing a final decision-maker,
23 given the high level of conflict between the father and

1 mother.

2 Second, allowing the child to maintain
3 relationships with other important individuals in his
4 life, including Mr. Wilson's family, Mrs. Wilson's and the
5 minor child's childhood friends, Mr. Rhett (ph.), a hired
6 tennis coach who appeared to be a positive adult influence
7 in the child's life; and Dr. Sowa, a clinical psychologist
8 and therapist who had been working with the child for over
9 a year prior to the hearing and appeared to have a good
10 relationship with the child.

11 Third, creating clear lines of separation
12 between the child's time with each parent, with the goal
13 of minimizing intrusion or interference by the other
14 parent during their non-custodial time. And, four,
15 diffusing the parties' efforts to embroil the child in
16 their high-conflict relationship.

17 The Court was also concerned, given the
18 testimony presented during the 2019 hearing, about Mr.
19 Wilson's ability to control his emotions and his anger
20 towards Mrs. Wilson, when he believed Mrs. Wilson and the
21 child were engaging in activities that Mr. Wilson did not
22 agree were a priority for the child, such as taking a
23 four-day trip to Disney World with Mrs. Wilson and family

1 friends rather than staying in Arlington with Mr. Wilson
2 practicing tennis, which was the subject of extended
3 testimony in the 2019 hearing.

4 In addition, the Court was concerned, based on
5 the testimony provided, that Mr. Wilson would be upset
6 with the Court's decision to modify custody.

7 For these reasons, the Court made anger-
8 management counseling and continued therapy a condition of
9 the September 2019 custody order for Mr. Wilson to
10 minimize the possibility of intended or unintended
11 emotional and physical harm to the minor child when
12 conflicts arose between the parents or between the parents
13 and the child.

14 Based on the evidence presented in eight days
15 of hearing the instant cross petitions to modify custody,
16 it appears that none of these objectives were met in the
17 ten months between the 2019 custody trial and the 2020
18 emergency cessation of Mr. Wilson's visitation in this
19 case.

20 Before the Court signed the final order in
21 September 2019, Mr. Rhett was no longer providing tennis
22 lessons to Justin and had otherwise discontinued his
23 relationship with him.

1 In December 2019, Dr. Sowa advised that he was
2 unable to continue to assist the family and recommended a
3 new therapeutic model involving two therapists working
4 separately with Justin and an individual parent, which
5 ultimately was the genesis of the emergency petition filed
6 in May 2020.

7 Throughout the period January 20 through April
8 20, 2020, the parents disagreed over how best to implement
9 the two therapists mom recommended by Dr. Sowa to the
10 family.

11 Consequently, instead of counseling providing
12 both continuity and a safe space for the child to engage
13 with adults, who could help him navigate the high level of
14 ongoing conflict between his parents and its effect on
15 him, it became the catalyst for the events now before the
16 Court.

17 In April of 2020, Mr. Wilson verbally
18 assaulted family friends of the minor child in front of
19 the minor child when he happened upon them while out
20 jogging, calling them terrible, horrible, ugly people,
21 because of the testimony they provided in the 2019 custody
22 trial.

23 Mr. Wilson urged the child to tell the family

1 that he wanted to live with his father, not his mother,
2 notwithstanding the Court's order the previous fall. Mr.
3 Wilson also admitted in June 2020 that he was angry about
4 the outcome of the 2019 custody trial.

5 Significantly, and in keeping with the Court's
6 2019 concerns, Mr. Wilson admitted during an emergency
7 custody hearing in June of 2020 that in May of 2020, after
8 being advised by the child's therapist that the child was
9 provided conflicting information to both therapists
10 regarding his relationship with each parent, Mr. Wilson,
11 in a rage he described as 9.5 out of 10, physically
12 grabbed the child by the shoulders and vigorously shook
13 him about six times and smacked him on the bottom.

14 He admitted to telling the child that he was
15 so angry he would not look at him, that he feels like he
16 could break the child's nose, and that the child needed to
17 stay in his room.

18 In the week after this incident, the child
19 made clear to his therapist and Court-appointed GAL that
20 he did not want to have contact with his father.

21 The Court finds this combination of factors
22 sufficient to create a material change in circumstances.

23 Mrs. Wilson's emergency petition to modify

1 custody alleges the child reported that on May 18th, 2020,
2 Mr. Wilson hit the child in the face, head and arms. The
3 petition also alleges the child reported that on prior
4 visits with Mr. Wilson he repeatedly hit the child in the
5 head, causing pain which lasted up to 20 minutes.

6 Mr. Wilson's cross petition to modify custody
7 alleges that Mrs. Wilson committed fraud on the Court, and
8 that the pictures submitted to support the emergency
9 petition were fabricated and Mrs. Wilson provided false or
10 misleading testimony to the Juvenile Court and this Court,
11 respectively, in the June 2nd protective order hearing and
12 the June 15th emergency motion to modify custody in this
13 court.

14 After 15 months of extended discovery in the
15 case, the Court heard three days of testimony in June 2021
16 and two additional days of testimony and one-half day of
17 argument in September 2021.

18 Having considered the credibility of the
19 evidence and the witnesses presented by both parties and
20 according the weight the Court deems appropriate to each,
21 the Court makes the following findings with respect to the
22 factors set forth in Virginia Code 20-124.3.

23 On the age and physical and mental condition

1 of the child, given due consideration to the child's
2 changing developmental needs, Justin is now 13 years old
3 and entering the 7th grade. For the 2019-2020 and 2020-
4 2021 school years he was enrolled in Commonwealth Academy
5 in Alexandria, Virginia, however he was not invited back
6 for the 2021 and 2022 school year. The guardian ad litem
7 reports this was due to litigation in this case.

8 Mr. Wilson acknowledged that in or around
9 December of 2020 he received an e-mail from the school
10 asking the parents not to embroil the school in the
11 litigation. He also acknowledged that one of the factors
12 cited by the school for Justin not being allowed to return
13 was the subpoenas issued by Mr. Wilson's attorney in this
14 case. Justin, the son, currently attends Swanson Middle
15 School in Arlington, Virginia.

16 He has been diagnosed in the past with
17 attention-deficit hyperactivity disorder, but the Court
18 has not been made aware that he is taking any medication
19 for ADHD.

20 Mr. Wilson testified that Justin's grades at
21 Commonwealth Academy were Bs and B-minuses and that his
22 grades had been slightly lower this past year, but neither
23 party introduced Justin's academic records or report

1 cards.

2 Jacqueline Riley, Justin's 5th-grade math
3 teacher, testified that he attended class regularly
4 throughout 2019-2020. Mr. Wilson introduced attendance
5 records which show that during the 2020-2021 school year
6 Justin was marked absent or tardy from various classes in
7 excess of 100 times.

8 Mrs. Wilson testified that Commonwealth
9 Academy's policy was to mark a student tardy or absent
10 even if they were a few minutes late.

11 Dr. Bennett testified that sometime in March
12 of 2021 she recalled that Justin was sent home from school
13 for refusing to wear a mask.

14 Justin has been described by both parents and
15 the guardian ad litem as active, athletic, and in good
16 physical health. He has been involved in football,
17 tennis, skateboarding, hiking, chess and guitar.

18 Marianna Lanzo and Iryna Balusheuskaya, who
19 see Justin frequently and saw him in June of 2021 prior to
20 the trial, described him as very happy, inquisitive,
21 talkative, and open to trying new things.

22 Regarding Justin's mental and emotional state,
23 the Court heard testimony from Dr. Elizabeth Bennett, Dr.

1 Guy Van Sickle, and Dr. Adam Soa in June 2020, and
2 additional testimony from Dr. Bennett in June 2021. Dr.
3 Bennett, accepted by the Court as an expert in clinical
4 psychology, began seeing Justin every other week,
5 beginning in March of 2020, upon a referral from Dr. Sowa.
6 She had met with Justin approximately nine times and Mrs.
7 Wilson twice as of June 2020.

8 She described Justin initially as somewhat
9 aloof, oppositional, disruptive, and mildly hostile to
10 Mrs. Wilson during their initial sessions.

11 Dr. Van Sickle, accepted by the Court as an
12 expert in clinical psychology, first began seeing Justin
13 in April 2020, also at the suggestion of Dr. Sowa, and saw
14 him every other week through May 15th, 2020. He observed
15 that Justin seemed fond of his father and appeared calm
16 and happy when he spoke about his father. He testified
17 that Justin was extremely unhappy when discussing his
18 mother, claiming he never did anything when he was with
19 her, and generally having nothing positive to say.

20 Dr. Bennett and Dr. Van Sickle first conferred
21 in May 2020 regarding Justin. Based on their
22 conversations and observations of Justin, it was obvious
23 that Justin was in conflict and was telling very

1 different, polarized stories to both parents.

2 Dr. Bennett described Justin as a child who
3 felt trapped by a loyalty conflict between his parents and
4 was struggling to figure out how to untangle himself from
5 it.

6 Both therapists were concerned about Justin's
7 psychological well-being, and their goal for therapy in
8 early May 2020 was to ensure that Justin was safe and to
9 bring his emotions more to center, help him develop a
10 positive relationship with both parents, and lessen the
11 loyalty conflict.

12 Dr. Bennett testified that after the May 2020
13 incident, Justin seemed relieved that there was going to
14 be a break in contact with his father and more open to
15 discussing the pressure he had been under and his worries
16 about being hit by his father.

17 Dr. Bennett found the child's demeanor and
18 specific emotional response during their conversations
19 consistent with the comments he was making. She observed
20 that his overall demeanor changed significantly after June
21 2020, and he was more age-appropriate and spontaneous in
22 therapy than he had been before.

23 Although Justin remained fearful of his father

1 even into June 2021, he was much warmer towards his mother
2 and exhibited fewer power struggles with her during this
3 time.

4 Over the course of 2020, he did exhibit
5 perspective about his father's feelings, concerned that he
6 may be sad, and appeared to be softening a bit in his
7 unwillingness to have contact with his father.

8 Dr. Bennett acknowledged that although Mrs.
9 Wilson articulated significant worry in early May about
10 physical abuse by Mr. Wilson, Dr. Bennett did not recall
11 having any information consistent with physical abuse by
12 Mr. Wilson prior to the May 2020 CPS report.

13 In subsequent sessions with Justin, Justin
14 talked about being hit by Mr. Wilson on other occasions,
15 but his reports were inconsistent from session to session,
16 and Dr. Bennett had no specific information about the
17 nature of the contact or the frequency.

18 Dr. Van Sickle testified that during his
19 sessions with Justin, he never manifested discomfort with
20 his father or disclosed that Mr. Wilson had treated him
21 poorly.

22 Factor two, the age and physical and mental
23 condition of each parent.

1 Prior to the 2019 custody trial, the Court
2 ordered both Mr. and Mrs. Wilson to undergo independent
3 medical examinations, which were performed by Dr.
4 Zuckerman and Dr. Saminow, respectively. The Court did
5 not require new evaluations prior to the 2021 hearing, and
6 neither parent was deemed to have any mental or emotional
7 disorder. Mr. Wilson self-reported that he believes he
8 has ADHD, but it has never been diagnosed.

9 Both parents are in their late 40s, and both
10 appear to be in good physical health. Mr. Wilson
11 described his level of fitness as above average. Prior to
12 June 2020, both parents engaged in various physical
13 activities with the child, including hiking, jogging,
14 pick-up basketball, and skating.

15 Number three, the relationship existing
16 between each parent and Justin, including cognitive
17 involvement and ability to accurately assess and meet the
18 emotional, intellectual, and physical needs of the child.

19 Mrs. Wilson. Mrs. Wilson testified that
20 during the period of September of 2019 through June 2021,
21 she would take Justin to the skate park, hiking, to
22 swimming lessons, guitar lessons, basketball, and to play
23 chess.

1 He was enrolled in skateboard lessons and
2 winter soccer in 2019, guitar lessons, swimming lessons,
3 flag football, football camp and nature camp in 2020,
4 tennis in 2020 and 2021, and Carnegie, an online
5 scholastic math game in 2019 and 2020.

6 Mrs. Wilson and Justin also like to read and
7 cook together and spend time with family friends.

8 During the time period in issue, they went on
9 two winter ski vacations to Canaan Valley, West Virginia,
10 two beach vacations in Marco Island, Florida, played laser
11 tag, went rock-climbing, attending skating groups,
12 birthday parties, and movie nights.

13 Defendant's Exhibit 7 contains numerous photos
14 of Justin engaging in many of these activities with Mrs.
15 Wilson and others.

16 Mother's witnesses, Marianna Lanzo, Iryna
17 Balusheuskaya, and Galina Spivak, who see Justin with his
18 mother frequently, described him in June 2021 as very
19 happy, inquisitive, talkative, and open to trying new
20 things.

21 During the period of 2019 through May 2020,
22 they also described Justin as more relaxed, open, and less
23 stressed after prolonged stays with his mother. They were

1 aware of his involvement in football, tennis, chess,
2 skateboarding and guitar.

3 In apparent conflict with this evidence, Dr.
4 Sowa testified that through December 2019 Justin described
5 having a very negative relationship with his mother,
6 claiming that they never did anything together and that he
7 would just sit in his room and play videogames when he was
8 with her. Dr. Sowa never discussed this with Mrs. Wilson,
9 even though Mrs. Wilson brought Justin to most of their
10 sessions in 2019.

11 Dr. Van Sickle provided similar testimony in
12 June 2020, but admitted he never observed any interactions
13 between Justin and his mother, and that Mrs. Wilson was
14 very agreeable with the idea of him working with Justin.

15 Neither therapist was able to offer an opinion
16 as to whether Justin's statements regarding time spent
17 with his mother was coached, but Justin's descriptions are
18 wholly inconsistent with the overwhelming, credible
19 evidence presented to the Court in 2019 and again in 2021.

20 Dr. Bennett, too, described Justin initially
21 as defiant and oppositional towards his mother in the
22 spring of 2020, but noticed a marked positive difference
23 in his attitude immediately after the events of May 2020.

1 By 2021, she described the child's relationship with his
2 mother as generally stable and his therapy as being on a
3 maintenance level.

4 The Court finds all of this evidence
5 consistent with the therapists' opinions that, due to the
6 conflict between the parents, Justin did not feel it was
7 permissible to admit having a positive relationship with
8 his mother.

9 Mr. Wilson. The only friends of Mr. Wilson,
10 Solomon Wanamu (ph.) and Rajish Lashish (ph.) testified
11 that they had engaged in numerous activities with Mr.
12 Wilson and Justin, mostly revolving around tennis and
13 other sports, prior to the change in custody in 2019.

14 They did not interact with Mr. Wilson or
15 Justin frequently after that. They described Mr. Wilson's
16 relationship with Justin as a good father who tended to
17 his needs. They had seen Mr. Wilson pat Justin on the
18 back or the butt, but never saw him physically abuse
19 Justin.

20 The Court notes that although tennis was a
21 predominant part of Mr. Wilson's and Justin's routine
22 prior to the custody hearing in 2019, and Mr. Wilson
23 testified in this hearing how important he believes tennis

1 is for Justin's ADHD, Mr. Wilson discontinued tennis
2 lessons with Mr. Rhett immediately after the 2019 hearing
3 and stopped playing tennis with Justin during his
4 custodial time.

5 The Court notes that this was done even
6 though, due to the holiday schedule incorporated into the
7 Court's 2019 order, Mr. Wilson had custody of Justin close
8 to 50 percent of the time in the fall and the winter of
9 2019 and 2020.

10 Mr. Wilson did testify that during this time,
11 he planned fun weekend outings with Justin, including
12 traveling to New York and the Dominican Republic, and
13 trips to a football game in Florida, and to visit family
14 in Nashville.

15 Mr. Wilson worked in an exercise component
16 during his visitation time with Justin. And when he and
17 Justin stayed in the D.C. area, they would go to the
18 movies, play paintball, go to the park, jog, play at the
19 rec center, or engage in other physical type activities.

20 Because his visitation with Justin was
21 primarily on weekends, Mr. Wilson did not engage in much
22 school work with Justin. However, he testified that
23 Justin usually had less than 15 minutes of homework while

1 he was enrolled in Commonwealth Academy.

2 He testified that throughout the period 2019
3 through 2021, he checked in with the school approximately
4 once per week regarding Justin's progress and assisted him
5 with one large project in the fall of 2019.

6 Mr. Wilson was aware that Justin was taking
7 skateboarding lessons in October of 2019 and attended some
8 swimming lessons in the fall of 2020 and drove him to flag
9 football in early 2020.

10 While Mr. Wilson appears to have come to some
11 realization, with the help of Dr. Zuckerman, of the impact
12 that continuous custody disputes had had on Justin, Mr.
13 Wilson appears unable or unwilling to see that it is his
14 actions which have played the most significant role in the
15 outcome of these proceedings, and instead continues to
16 blame Mrs. Wilson for the rupture in the father/child
17 relationship.

18 Mr. Wilson also does not seem to understand
19 why his 11-year-old son might understand a statement made
20 in raging anger that he could break his nose as a threat
21 of physical harm rather than a rhetorical statement, as
22 Mr. Wilson continues to describe it.

23 In addition, Mr. Wilson has embarked on a

1 scorcher of litigation strategies to discredit Mrs. Wilson
2 and indirectly Justin, notwithstanding his own admissions
3 at the very first emergency hearing in June 2020 that he
4 precipitated an inappropriate and physical abusive
5 encounter with his son on May 18, 2020, that Mrs. Wilson
6 played no role in whatsoever.

7 This conduct occurred just nine months after
8 the Court found that Mr. Wilson engaged in a pattern of
9 emotional abuse towards both Mrs. Wilson and Justin that
10 necessitated a change in custody and anger-management
11 counseling.

12 Moreover, while the Court has attempted
13 repeatedly over the past 18 months to focus this case back
14 on Justin, Mr. Wilson has done the opposite. To this day,
15 he has expressed no concern about the decision by
16 Commonwealth Academy to disenroll Justin for the 2021-22
17 school year, nor has he taken any responsibility for the
18 impact his litigation tactics has had on his son's ability
19 to return to the specialty school he has attended for the
20 past several years.

21 Finally, while Mr. Wilson appears genuinely
22 upset about not having had contact with Justin for the
23 past 18 months, he has been unwilling to participate in

1 the program of supervised visitation as recommended by the
2 guardian ad litem in order to begin the reconciliation
3 process with Justin.

4 As a result, Justin, too, has lost 18 months
5 of interaction with his father, during COVID, one of the
6 most challenging and isolating times he has likely faced
7 in 13 years of life.

8 The Court finds these facts significant in
9 weighing what is in the best interest of the child in this
10 case.

11 Factor four, the needs of the child, given due
12 consideration to other important relationships of the
13 child, including, but not limited to siblings, peers, and
14 extended family members.

15 The evidence is undisputed that after the
16 incident on May 18th, 2020, Justin wanted no contact with
17 Mr. Wilson and has had no contact with Mr. Wilson or his
18 family, all of whom have strong relationships with Justin.

19 The evidence also establishes that Justin's
20 hardline position appears to be softening as the months
21 have gone by, and Justin seems more willing to re-engage
22 with his father, although he is still fearful of what that
23 process might look like.

1 Prior to May 2020, witnesses called by both
2 Mr. and Mrs. Wilson testified that Justin appeared content
3 when dealing with either parent without the interference
4 of the other, although transitions were difficult,
5 particularly given the custody tug-of-war Justin's
6 therapist described him as being in.

7 Justin has been described as a polite,
8 articulate, athletic, bright, high-needs child, and
9 routine and structure as well as physical activity are
10 important to him.

11 Although the Court attempted to create a
12 framework in its 2019 order that would allow the parties
13 to institute both routine and structure, the ongoing
14 conflict between the parties and Mr. Wilson's volatile
15 responses to that conflict have completely undermined any
16 routine or structure the Court's 2019 order was designed
17 to provide.

18 Five, the role each parent has played and will
19 play in the future in the upbringing of the child. Mrs.
20 Wilson was awarded primary physical custody in 2019.
21 Although it was noted previously, given the holiday
22 schedule incorporated into that order, Mr. Wilson's
23 custody in the fall of 2019 continued to be closer to

1 50/50. Since May 21, 2020, Mr. Wilson has had no contact
2 at all with Justin.

3 Although the Court maintained joint legal
4 custody in its 2019 order, in the hope that Mr. and Mrs.
5 Wilson would work with one another to achieve Justin's
6 best interest, given the toxic relationship between the
7 parents, this Court cannot envision how both parents can
8 continue to play an equal, ongoing, and supportive role in
9 Justin's life in the future.

10 Six, the propensity of each parent to actively
11 support the child's contact and relationship with the
12 other parent, including whether the parent has
13 unreasonably denied the other parent access to or
14 visitation with the child.

15 The Court adopts the facts previously
16 articulated in that in evaluating this factor, and finds
17 the ongoing high level of conflict between the parties,
18 and their continued willingness to embroil the child in
19 that conflict, and the propensity of each as evidenced by
20 the testimony to think the worst of the other, is a
21 significant factor in the Court's consideration.

22 The relative willingness and demonstrated
23 ability of each parent to maintain the close and

1 continuing relationship with the child and the ability of
2 each parent to cooperate and resolve differences regarding
3 the matters affecting the child. The Court adopts the
4 facts previously articulated in evaluating this factor.

5 Eight, the reasonable preference of the child.
6 The Court deems the child to be of reasonable
7 intelligence, understanding, age, and experience to
8 express such a preference. At 13, the Court finds that
9 Justin possesses the requisite age, understanding, and
10 experience to express a preference, taking into
11 consideration that he struggles with impulse control and
12 has expressed fear about reinitiating contact with his
13 father, given the facts and circumstances currently before
14 the Court.

15 The Court previously found that Justin has
16 difficulty with executive decision-making, particularly
17 understanding the consequences of his words, actions and
18 choices. He continues to exhibit ongoing stress when
19 faced with conflict between his parents.

20 Justin has expressed and acted upon his desire
21 not to have contact with his father. However, this
22 position has softened, and presented with a safe scenario
23 to begin reunification, he may be amenable to that

1 process.

2 In addition, Justin appears to have developed
3 an open relationship with his guardian ad litem, who can
4 assist Justin with decision-making and any reunification
5 process.

6 Nine, prior history of the family abuse. The
7 parties presented evidence of an incident in 2017, when
8 Mr. Wilson struck Justin with a belt and a report was made
9 to CPS. The facts regarding this incident are now fully a
10 part of the record in this case.

11 The incident was addressed by CPS, but the
12 only assessment that appears from the deposition from the
13 testimony of Mr. Rails (ph.), is that Mr. Wilson was
14 advised to refrain from further corporal punishment of the
15 child.

16 The Court finds the incident relevant as an
17 additional example of a stern physical interaction between
18 Justin and Mr. Wilson that may play into his fear of
19 physical violence on the part of his father and weighs it
20 accordingly.

21 The Court does not find it particularly
22 informative on the issue of whether Mrs. Wilson's
23 testimony that she did not know what to do the week of May

1 18, when she learned that Justin was hit by his father was
2 credible.

3 There is no evidence that Mrs. Wilson made the
4 CPS report regarding the 2017 incident, moreover knowing
5 what to do and knowing whether to do it are two completely
6 different issues.

7 Ten, other factors the Court deems
8 significant. The Court does find that during the week of
9 May 18, 2020, Mrs. Wilson embroiled Justin in the instant
10 dispute by having the child make multiple tape recordings
11 regarding the events of May 18, which she was slow to
12 produce in discovery, and taking various pictures of the
13 child's face, which were relied upon by Mr. Wilson for his
14 fraud on the Court allegations.

15 In addition, Mrs. Wilson provided conflicting
16 explanations regarding the events of May 18 to 22 and
17 admitted that she provided false information to the
18 police, Dr. Bennett, and Child Protective Services
19 regarding the date she learned the cause of the bruise on
20 the child's face.

21 She explained that she did not tell the
22 authorities she had learned about the source of the bruise
23 several days earlier because she was afraid she would get

1 in trouble for not reporting the injury at that time.

2 The Court believes that Mrs. Wilson was not
3 sure what she should do in May 2020 after learning about
4 the abuse, given the way this litigation has proceeded so
5 close in timing to the 2019 proceedings and its effect on
6 Justin.

7 However, her decision to alter the narrative
8 to make herself look better provided Mr. Wilson the
9 factual basis to allege fraud, and Mrs. Wilson to some
10 extent brought that on herself. That said, the Court does
11 not find either clear and convincing or a preponderance of
12 evidence that Mrs. Wilson committed a fraud on the Court.

13 Notwithstanding Mr. Wilson's arguments to the
14 contrary, Mrs. Wilson did not make up an allegation of
15 physical abuse by Mr. Wilson on May 18th, 2020. Mrs.
16 Wilson stated in her emergency motion to modify custody
17 and in her motion for protective order that Justin told
18 her that Mr. Wilson struck him in the face, the arms, and
19 the head on May 18th.

20 Mr. Wilson admitted that a physical
21 altercation occurred between Justin and him on May 18th.
22 No one else was present. Mr. Wilson did not tell Mrs.
23 Wilson about the altercation. Thus, the only way Mrs.

1 Wilson could have learned about the altercation was from
2 Justin.

3 Mr. Wilson testified in June 2020 that around
4 4:30 p.m. on the afternoon of May 18 he had a telephone
5 conversation with Dr. Van Sickle about the conflicting
6 information Justin was providing the two therapists.
7 Justin had denied this to Dr. Van Sickle in a session the
8 previous Friday, May 15th.

9 Mr. Wilson had confronted Justin about what he
10 had been saying to Dr. Van Sickle and Dr. Bennett. Mr.
11 Wilson admitted that he was angry, disappointed, and
12 stunned. In what Mr. Wilson characterized as a rage of
13 9.5 out of 10, he smacked the child on the bottom with an
14 open hand to get his attention and usher him into his
15 room.

16 He testified that he also took Justin by both
17 arms, placed his hands on his shoulder, and shook him
18 fairly vigorously about six times. He admitted telling
19 the child that he was so angry he couldn't look at him and
20 felt like he could break his nose, the same statement that
21 Mrs. Wilson included in her motion for a preliminary
22 protective order filed prior to Mr. Wilson's June 2020
23 testimony.

1 Afterwards, the child stayed in his room while
2 Mr. Wilson calmed down by running for a lengthy time on
3 the treadmill. Mrs. Wilson picked the child up around
4 7:00 p.m.

5 Even accepting Mr. Wilson's version of events
6 as true, given these facts, it's certainly reasonable that
7 a ten-year-old who was being securely held by his arms and
8 shoulders and shaken vigorously by a much stronger,
9 larger, outraged parent, would describe the physical
10 sensation he was feeling as being hit in the arms, head
11 and face, particularly if he had his eyes closed or if his
12 face or head came into contact with Mr. Wilson's hand
13 while they were clamped onto his shoulders.

14 No one but Mr. Wilson and Justin know exactly
15 what happened that day. But given Mr. Wilson's
16 contemporaneous admissions in June of 2020, Mr. Wilson's
17 own evidence is not inconsistent with the child's report
18 that the father struck him on the head, face and arms on
19 May 18th, 2020.

20 When Mrs. Wilson picked the child up around
21 7:00, she noticed that he was quiet and had a bruise on
22 his cheek that was blue in color. Justin did not tell her
23 about the source of the bruise on Monday, and she did not

1 take a photograph of it.

2 Dr. Warburton, who the Court accepted as an
3 expert in pediatric medicine, testified that a bruise is
4 normally red in color for the first one to two hours,
5 after which it is predominantly blue.

6 Mrs. Wilson's description of the bruise on
7 Justin's cheek is wholly consistent with both Dr.
8 Warburton's and Mr. Wilson's testimony, as he stated the
9 incident occurred sometime after 5:00, but sufficiently
10 before 7:00, to allow Mr. Wilson to perform a lengthy
11 workout on the treadmill and then sit with Justin for an
12 additional period of time before Mrs. Wilson arrived.

13 Dr. Warburton testified that between 24 and 72
14 hours after an injury is inflicted, a bruise will begin to
15 turn yellow and green with blue hues, and most bruises
16 will be completely resolved within a week.

17 Three witnesses testified that they observed a
18 bruise on Justin's cheek the way of May 18th. Ms.
19 Balusheuskaya, who saw the bruise Friday evening,
20 testified that it was yellowish-blue in color. She
21 testified that she gently touched the bruise and it did
22 not feel swollen. No makeup came off on her hand when she
23 touched the bruise.

1 The DCPS worker, Jackie Martinez, saw the
2 bruise on Saturday afternoon and described the bruise as
3 purple-blue. Ms. Martinez testified that she had not
4 notified Mrs. Wilson that she was coming to the house on
5 Saturday, and that Mrs. Wilson was out of her sight less
6 than a minute before taking Ms. Martinez to meet with
7 Justin.

8 She took photos of Justin's face from about
9 two feet away within the first ten minutes of the visit,
10 which she forwarded to the hotline staff and then deleted
11 from her phone.

12 She also spoke with Justin about what
13 happened. She did not testify that Justin seemed to be
14 fabricating or dissembling how he got the bruise and
15 offered no testimony that the bruise appeared to have been
16 applied or was fake. She recalled the coloring of the
17 bruise being more intense than what she saw depicted in
18 the photo.

19 Ms. Lanza saw Justin on Sunday and noticed a
20 discoloration on his cheek, which was yellowish and
21 fading.

22 Dr. Warburton opined that the purple-blue
23 coloration described by Ms. Martinez on Saturday was not

1 consistent with the color progression of a healing bruise.
2 Dr. Warburton also testified that when someone is slapped
3 or punched, it is more likely than not one will see hand
4 or finger marks, which he did not see any sign of in the
5 digital images.

6 However, he did not quantify how long these
7 would be visible. Dr. Warburton admitted that most of his
8 medical experience dealing with bruises was not in his
9 medical practice, as he was rarely called upon in the
10 office to treat a bruise, and he has not conducted any
11 medical research regarding bruises or aging of bruises.

12 Prior to this case, he has never been asked to
13 opine whether a photograph depicts a real or fake bruise.
14 Nevertheless, he opined the bruise in the May 2020 photos
15 was either fake or occurred sometime after May 18.

16 None of Justin's teachers reported noticing a
17 bruise on his face in any of the remote learning sessions
18 the week of May 18th. The teachers had somewhere between
19 5 and 16 students on their screens during each class.

20 While the Court finds Dr. Warburton's
21 testimony regarding the general aging and coloration
22 progression of bruises to be largely credible, the Court
23 finds that his opinion is otherwise contrary to the

1 credible evidence in the case, including the testimony of
2 the three witnesses who actually saw the bruise, none of
3 whom testified it appeared to be fake or applied.

4 Moreover, there is no evidence that Dr.
5 Warburton was apprised of these facts or that he was aware
6 that Mr. Wilson admitted vigorously shaking the child
7 while his hands were clutching the child's shoulders close
8 to his face.

9 Moreover, other than being told the child was
10 generally in good health, there is no evidence that Dr.
11 Warburton was provided any information regarding the
12 child's medical condition, including that he suffers from
13 eczema, a skin condition.

14 Rather, Dr. Warburton appears to have relied
15 on the narrowly-tailored set of factors provided by Mr.
16 Wilson's counsel to render an opinion on whether the
17 bruise depicted in the mother's photos was real, an
18 opinion he acknowledged he has not previously been called
19 upon to render in more than 40 years of practicing and
20 teaching medicine.

21 With respect to the computer forensic experts,
22 Mr. Latham and Mr. Caruso, the Court finds Mr. Caruso's
23 testimony more persuasive.

1 First, Mr. Latham received the images he
2 analyzed from another expert who performed an unknown
3 authentication analysis on the images. The Court was
4 provided no information as to whether that analysis
5 changed the images in any way.

6 Second, Mr. Latham, testified that he applied
7 different filters to the different images to attain the
8 desired results, leaving the Court to essentially compare
9 apples to oranges. Mr. Latham testified that some
10 unspecified mathematical algorithms were applied to
11 determine which filters to use. But Mr. Caruso testified
12 that it was impossible to determine or recreate the
13 methodology used by Mr. Latham or to determine its
14 accuracy.

15 While Mr. Caruso admitted that the filtering
16 process can be very valuable, there is sufficient
17 reference points for comparison. Without things such as
18 the child's actual skin tone or no lighting set up, he
19 opined there were not sufficient reference points for the
20 filters to be useful.

21 In addition, Mr. Caruso noted that the images
22 were taken with different cameras with different pixel
23 capacities and different normalization features. In

1 addition, the lighting conditions, shadows, distance, and
2 facial orientation were different in each picture. To
3 equalize the size of the images, Mr. Latham zoomed in on
4 one of the pictures, which stretched the image.

5 According to Mr. Caruso, all of these factors
6 undercut the reliability of Mr. Latham's opinion.

7 Finally, Mr. Latham testified that there
8 appeared to be an area of dark contrast on both sides of
9 the child's face, including the side that all witnesses
10 testified had no evidence of bruising.

11 Based on this evidence, the Court found it
12 impossible to determine what coloration on the child's
13 face Mr. Latham's filtering process actually highlighted
14 for analysis.

15 For these reasons, the Court gave greater
16 weight to Mr. Caruso's opinion that there was simply not
17 enough information available from the photos of the
18 child's face to draw any conclusion regarding the relative
19 placement of the bruise.

20 The second allegation in Mrs. Wilson's
21 emergency motion is that Mr. Wilson repeatedly struck
22 Justin in the face and head when the child was visiting.
23 Again, Mr. Wilson admitted in June 2020 that prior to the

1 2019 custody hearing it was possible that he struck Justin
2 on the head approximately two times per visit.

3 He explained that he did not do this to hurt
4 the child, but to make him think or remember to do
5 something. He meant it to be a strong reminder for the
6 child so that he would comply with an instruction.

7 Subsequently, in 2021, Mr. Wilson testified
8 that he would hit the child in the head with an open hand
9 only one or two times in a several week period. Either
10 way, Mr. Wilson admitted engaging in the conduct alleged
11 in Mrs. Wilson's complaints.

12 The Court has carefully considered all the
13 evidence presented in this case regarding each of the
14 above factors, and not just the facts relied upon and set
15 forth this afternoon to explain the Court's decision.

16 The Court has carefully assessed the demeanor
17 and credibility of the respective witnesses as they
18 appeared over five days of the in-person and remote
19 testimony, five days in 2021 and three days in 2020, and
20 has reviewed the exhibits introduced into evidence and
21 accorded each the weight the Court deems appropriate.

22 The Court finds that the best interest of the
23 child require that the custody and visitation schedule set

1 forth in the September 2019 modification of custody order
2 requires further modification.

3 The Court awards sole legal custody of the
4 minor child to Mrs. Wilson. Mrs. Wilson will provide Mr.
5 Wilson with information regarding any medical treatment
6 received by the child, as well as any school reports from
7 any school Justin is attending.

8 Mrs. Wilson may, but is not required to,
9 consult with Mr. Wilson regarding the child's activities,
10 school performance, and any behavior or emotional issues
11 involving the child.

12 Mrs. Wilson is granted sole physical custody
13 of Justin until further order of the Court.

14 The guardian ad litem shall identify a
15 reunification therapist no later than October 31st, 2021,
16 who will work with the father and child to begin the
17 reunification process.

18 Supervised visitation will initially be with
19 the reunification therapist, and the number and timing of
20 sessions will be decided by the therapist. When approved
21 by the reunification therapist, Mr. Wilson will also be
22 allowed supervised visitation with the child one Saturday
23 a month for a period not to exceed four hours, with

1 supervision through either Safe Havens or a certified
2 visitation professional approved by the guardian ad litem.
3 Mr. Wilson will pay for both the reunification therapy
4 services and his supervised visitation.

5 If the reunification therapist deems it
6 appropriate, Justin may also have two full days of
7 supervised visitation with his paternal grandfather and
8 uncles in Arlington prior to the end of the year, and Mr.
9 Wilson can participate in that visitation.

10 Neither parent is to make derogatory or
11 disparaging comments about the other parent or the
12 activities that parent has arranged for the child, and
13 neither parent shall use profanity in conversations with
14 the child or with the other parent.

15 Neither parent will use corporal punishment as
16 a means of disciplining the child or engage in any
17 physical abuse of the child. This is to include
18 intentionally hitting any part of the child's body to get
19 his attention, remonstrate him for inappropriate or
20 thoughtless conduct, or for any other reason, except if
21 the child's safety or health is in danger and such action
22 is necessary to protect his immediate well-being.

23 Mrs. Wilson will not call or schedule any

1 events for Justin during any of Mr. Wilson's supervised
2 visitation times. Mr. Wilson will provide Mrs. Wilson
3 with a visitation schedule approved by the reunification
4 counselor at least two weeks in advance, and Mrs. Wilson
5 can reach out to the counselor to adjust the schedule if
6 an unavoidable conflict exists.

7 Mr. Wilson will not call Justin during
8 mother's custodial time, except Mr. Wilson may call Justin
9 between 8:00 and 8:30 p.m. every Tuesday, Wednesday and
10 Thursday evening, and the calls will be limited to a half
11 hour.

12 Mrs. Wilson will ensure that Justin is
13 available to speak with his father during this time. All
14 telephone calls may be recorded without warning, pursuant
15 to this order. Mr. Wilson will be permitted to call up to
16 one hour with the child on the following holidays in 2020
17 (sic): New Year's Day, Thanksgiving, and Christmas.

18 Mr. Wilson will continue his current therapy
19 and will complete a specific anger-management program to
20 be approved by the guardian ad litem, and that can be done
21 with Dr. Zuckerman, Mr. Book, as long as there is a clear
22 focus on anger management as it applies to the
23 relationship with Mrs. Wilson and the child.

1 Mrs. Wilson is to engage in family counseling
2 with Dr. Bennett and the child at least every two weeks
3 until further order of the Court. Mrs. Wilson will make
4 every effort to ensure that Justin is attending school in
5 a consistent and timely manner, and she will work with the
6 guardian ad litem if absences or tardies continue to be an
7 ongoing issue now that school is back in-person.

8 The Court will set this matter for review in
9 January 2020 (sic), at which time the reunification
10 therapist, guardian ad litem, and Dr. Bennett shall report
11 to the Court as to whether increased visitation and
12 unsupervised visitation with Mr. Wilson, including
13 overnights, weekends, and holidays, are appropriate.

14 MR. KUBLAN: Your Honor, what was the deadline
15 for the report? I seem to have missed it.

16 THE COURT: I'm sorry?

17 MR. KUBLAN: You said there was a reporting
18 deadline for them to report to the --

19 THE COURT: I'll set a review date in January
20 of 2020 (sic), and that will be the date for everyone to
21 provide information to the Court, with the goal that Mr.
22 Wilson obviously would get increased and unsupervised
23 visitation. That is the Court's hope.

1 MR. KUBLAN: You mean January of 2022, right?

2 THE COURT: January of 2022, yes.

3 MR. BOOK: Judge, could I ask a question? I
4 was typing quickly, but is your ruling going to be
5 produced in an order, or shall we order a transcript? I
6 just want to make sure I got down all the conditions.

7 THE COURT: I think probably for everyone's
8 purposes, it makes sense to get a transcript and attach
9 that to the order, and that can be so that it is all
10 clearly set forth. I think the order can just reference
11 the enclosed transcript.

12 It's unfortunate that it's come to this point,
13 and I really hope, for Justin's sake, that he can start
14 having a normal relationship with both his parents.

15 Is there anything else that we need to do
16 today?

17 MR. KUBLAN: Yes, Your Honor, there are
18 several issues. One of the issues, as I mentioned before,
19 is the request for attorney's fees. And you said you want
20 us to schedule a different hearing for that. I do
21 believe, you know, the bulk of these attorney's fees could
22 have been avoided if the father did not raise, you know,
23 the issue of fraud and a fake bruise and all that other

1 stuff, all the conspiracy theories that we had to deal
2 with for, like, seven days of trial.

3 And I wouldn't be surprised, Your Honor,
4 considering that Mr. Bauserman kept mentioning, you know,
5 that he's creating a record, that, you know, the father
6 will be appealing this decision.

7 THE COURT: They have a right to do that.

8 MR. KUBLAN: Absolutely, Your Honor.

9 THE COURT: They have the right to do that.

10 MR. KUBLAN: Absolutely, I mean, he has the
11 right to do that, but the issue is that my client is
12 completely out of money at this point. So, I mean, she's
13 spent a significant amount of money to defend herself, and
14 not just from the legal piece.

15 I'm talking about the expertise and many other
16 things, you know, they had to go into this litigation to
17 basically to prove her innocence and to stand up for the
18 child.

19 So I don't know if Your Honor wants to have a
20 separate hearing on that, or if we can just submit some
21 kind of brief or something. I mean, I'd obviously be
22 amenable to that.

23 THE COURT: Mr. Bauserman, your position?

1 MR. BAUSERMAN: So, Your Honor, Mr. Wilson's
2 position on that is that I would like to see Mr. Kublan's
3 attorney's fees affidavit and review it ahead of time and
4 to see if I have any argument on it.

5 So I think we probably do need to reconvene
6 and, you know, reserve at least half an hour, depending
7 on, you know, to an hour to review that. I mean, I'm not
8 going to try to guess what his attorney's fees might be.

9 THE COURT: Well, I think, given the
10 complexity of all of the issues here, that having an
11 opportunity to review it ahead of time is eminently fair,
12 and so I have no problem.

13 Mr. Kublan, when do you believe you can get
14 Mr. Bauserman your attorney's fees affidavit?

15 MR. KUBLAN: Either today or tomorrow, Your
16 Honor.

17 THE COURT: I'm sorry?

18 MR. KUBLAN: Either today or tomorrow. I
19 actually have the affidavit right here with me, you know,
20 here in the (unintelligible).

21 THE COURT: All right. So he gets it to you -
22 - assuming it's the end of the day today, Mr. Bauserman,
23 so it's really tomorrow -- what kind of time would you

1 like, and would you just prefer to do a hearing, or would
2 you prefer to submit something in writing? I'm happy to
3 handle it either way.

4 MR. BAUSERMAN: I think I'd prefer to have --
5 appear in person, Your Honor, and respond.

6 THE COURT: Okay. Two weeks, is that enough
7 time, three weeks? When would you like to try to do it?
8 I'm available -- well, I'm not terribly available, but we
9 can find an afternoon time other than the last week in
10 October. I know I cannot do the 4th, the 5th, and I
11 cannot do the week of the 18th.

12 But I can do possibly the 6th, possibly --
13 well, the 6th is just next week. Possibly the 13th,
14 possibly the end of the week of the 18th.

15 MR. BAUSERMAN: So I have a full three days of
16 trial the week of the 18th, Monday, Tuesday and Wednesday.

17 THE COURT: Okay. Do you want to do it in
18 November?

19 MR. KUBLAN: I mean, obviously, our
20 preference, Your Honor, is to do it as soon as possible,
21 because --

22 THE COURT: I know, Mr. Kublan, but I'm out
23 the entire last week in October. It sounds like Mr.

1 Bauserman is out a bunch the third week in October. So, I
2 mean, we can try to find a date sometime, the 13th, 14th,
3 15th of October, that week of the 11th, but otherwise I
4 think we're into November.

5 MR. KUBLAN: I have, Your Honor, availability
6 on the 14th, Your Honor. I also can do the 15th. So, I
7 mean, are any of those dates available for Mr. Bauserman?

8 MR. BAUSERMAN: The afternoon of the 14th is
9 not available to me, but the morning is, and the afternoon
10 of the 15th is available.

11 MR. KUBLAN: It's available for me, too, Your
12 Honor, if you have availability on the Court's schedule.

13 MR. BOOK: Your Honor --

14 THE COURT: This doesn't really affect you;
15 right?

16 MR. BOOK: I was going to suggest that if I do
17 not need to participate, I don't want to hold up anybody's
18 schedule.

19 THE COURT: Okay. Do you think an hour is
20 enough time?

21 MR. BAUSERMAN: Yes.

22 MR. KUBLAN: I would think so, Your Honor,
23 yes.

1 THE COURT: All right. How about if we set it
2 on the afternoon of the 15th at, say, 2:00?

3 MR. KUBLAN: And that's October 15th, Your
4 Honor, right?

5 THE COURT: Yes, October the 15th.

6 MR. KUBLAN: Yes.

7 MR. BAUSERMAN: So that would be --

8 THE COURT: You have a trial starting on
9 Monday, or would that really create an issue for you?

10 MR. BAUSERMAN: It's not ideal, but --

11 THE COURT: Yeah, I don't think it's ideal
12 either. Would you prefer the morning of the 14th?

13 MR. BAUSERMAN: I would.

14 THE COURT: Does that work for you, Mr.
15 Kublan?

16 MR. KUBLAN: Yes, Your Honor, certainly.

17 THE COURT: Do I have a trial set that day? I
18 know I had something on the 14th. It's a carry-over,
19 yeah, it's a carry-over of a case.

20 But could we do this at 9:00 via Teams? Would
21 that work for all of you, and then we could be done by
22 10:00?

23 MR. KUBLAN: Yes, Your Honor, absolutely.

1 MR. BAUSERMAN: Yes, Your Honor.

2 THE COURT: All right. So we'll go ahead and
3 set it at 9:00 a.m. on October the 14th.

4 MR. KUBLAN: And, Your Honor, before you
5 leave, we do have one small issue here. The father still
6 continues to hold the passport, the child's passport.

7 Can we ask him to surrender it to the mother
8 at this point?

9 THE COURT: Is there any idea that she's going
10 to be traveling internationally with him right now? I
11 just don't want to inject another issue into the case that
12 doesn't need to be in there.

13 MR. KUBLAN: Well, she doesn't have any plans
14 to travel anywhere, but I believe, in light of the Court's
15 decision that my client has sole legal custody, I think
16 it's appropriate for her to keep that passport at this
17 point.

18 THE COURT: Mr. Bauserman, why don't we just
19 address that on the 14th as well, so that you have an
20 opportunity to talk with your client. I think she should
21 be entitled to it, but why don't we just take that up on
22 the morning of the 14th as well.

23 MR. BAUSERMAN: All right.

1 THE COURT: All right, thank you all.

2 MR. KUBLAN: Thank you, Your Honor.

3 (Whereupon, at approximately 3:39 o'clock
4 p.m., the proceedings in the above-entitled matter were
5 concluded.)
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CERTIFICATE OF REPORTER

I, MICHELLE L. DONATH, a Verbatim Reporter, do hereby certify that I took the stenographic notes of the foregoing proceedings which I thereafter reduced to typewriting; that the foregoing is a true record of said proceedings; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were held; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

MICHELLE L. DONATH
Verbatim Reporter